

# S. 2343

## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 16 (legislative day, SEPTEMBER 11), 1975

MR. MAGNUSON (for himself and Mr. PEARSON) (by request) introduced the following bill; which was read twice and referred to the Committee on Commerce.

## A BILL

To amend the Communications Act of 1934, as amended, with respect to penalties and forfeitures.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. Section 503 (b) of the Communications Act of 1934 as amended (47 U.S.C. 503 (b) ) ; is amended to read as follows:

“(b) (1) Any person who—

“(A) willfully or repeatedly fails to operate a radio station substantially as set forth in a license, permit, or other instrument or authorization;

“(B) willfully or repeatedly fails to observe any of the provisions of this Act or of any certificate, rule,

1 regulation, or order of the Commission prescribed under  
2 authority of this Act or under authority of any agree-  
3 ment, treaty, or convention binding on the United  
4 States;

5 “(C) violates section 317 (c) or section 509 (a)  
6 (4) of this Act; or

7 “(D) violates section 1304, 1343, or 1464 of title  
8 18 of the United States Code;

9 shall forfeit to the United States a sum not to exceed \$2,000  
10 Each act or omission constituting a violation shall be a sepa-  
11 rate offense for each day during which such act or omission  
12 occurs. Such forfeiture shall be in addition to any other pen-  
13 alty provided by this Act: *Provided, however,* That such  
14 forfeiture shall not apply to conduct which is subject to for-  
15 feiture under title II of this Act: *And provided further,* That  
16 such forfeiture shall not apply to conduct which is subject to  
17 forfeiture under part II or part III of title III or section 507  
18 of this Act.

19 “(2) No forfeiture liability under paragraph (1) of this  
20 subsection (b) shall attach to any person unless a written  
21 notice of apparent liability shall have been issued by the  
22 Commission, and such notice has been received by such per-  
23 son or the Commission shall have sent such notice by regis-  
24 tered or certified mail to the last known address of such  
25 person. A notice issued under this paragraph shall not be

1 valid unless it sets forth the date, facts, and nature of the act  
2 or omission with which the person is charged, and specifically  
3 identifies the particular provision or provisions of the law,  
4 rule, regulation, agreement, treaty, convention, license, per-  
5 mit, certificate, other authorization, or order involved. Any  
6 person so notified shall be granted an opportunity to show  
7 in writing, within such reasonable period as the Commission  
8 shall by rule or regulation prescribe, why he should not be  
9 held liable.

10 “(3) No forfeiture liability under paragraph (1) of  
11 this subsection (b) shall attach to any person who does  
12 not hold a license, permit, certificate, or other authorization  
13 from the Commission unless prior to the written notice of  
14 apparent liability required by paragraph (2) above, such  
15 person has been sent a notice of the violation, has been  
16 given reasonable opportunity for a personal interview with  
17 an official of the Commission at the field office of the Com-  
18 mission nearest to the person's place of residence and there-  
19 after has engaged in the conduct for which notice of the viola-  
20 tion was sent: *Provided, however,* That the requirement of  
21 this subsection for a notice of the violation and opportunity for  
22 a personal interview shall not apply if the person is engag-  
23 ing in activities for which a license, permit, certificate, or  
24 other authorization is required or is providing any service  
25 by wire subject to the Commission's jurisdiction; *And pro-*

1 *vided further*, That any person who has been sent a notice  
 2 of the violation, has been given a reasonable opportunity  
 3 for a personal interview and thereafter engages in the conduct  
 4 for which the notice was sent shall not be entitled to a  
 5 further notice for the same conduct and may be subject to  
 6 forfeiture for the initial and all subsequent violations.

7 “(4) No forfeiture liability under paragraph (1) of  
 8 this subsection (b) shall attach for any violation—

9 “(A) by any person holding a broadcast station  
 10 license under title III of this Act if the violation oc-  
 11 curred (i) more than 1 year prior to the date of the  
 12 issuance of the notice of apparent liability or (ii) prior to  
 13 the date beginning the current license term, whichever  
 14 date is earlier, or

15 “(B) by any other person if the violation occurred  
 16 more than 1 year prior to the date of issuance of the  
 17 notice of apparent liability.

18 “(5) In no event shall the total forfeiture imposed for  
 19 the acts or omissions set forth in any notice of apparent  
 20 liability issued hereunder exceed—

21 “(A) in the case of (i) a common carrier subject  
 22 to this Act, (ii) a broadcast station licensee or permittee,  
 23 or (iii) a person engaged in distributing to the public  
 24 broadcast signals by wire or engaged in distributing to

the public other program services by wire if such activity is the subject of Commission regulation, \$20,000;

“(B) in the case of any other person, \$5,000.”.

SEC. 2. Section 510 of the Communications Act of 1934, as amended (47 U.S.C. 510), is hereby repealed.

SEC. 3. Section 504 (b) of the Communications Act of 1934, as amended (47 U.S.C. 504 (b) ), is amended by deleting the words “parts II and III of title III and section 503 (b) , section 507, and section 510” and substituting the words “title II and parts II and III of title III and sections 503 (b) and 507”, and by deleting the phrase “, upon application therefor,”.

SEC. 4. Any act or omission which occurs prior to the effective date of this Act and which incurs liability under the provisions of section 503 (b) or 510 as then in effect will continue to be subject to forfeiture under the provisions of sections 503 (b) and 510 as then in effect.

SEC. 5. The amendments made by this Act shall take effect on the thirtieth day after the date of its enactment.

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By Mr. MAGNUSON and Mr. PEARSON

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